IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

CRP.No. 998 of 2000(I)

THE ORDER OF TALUK LAND BOARD, TRIVANDRUM, NO.35/77/TLB/TVM

REVN. PETITIONER:

A.PANKAJAKSHI AMMA, W/O.LATE SIVASANKARA PILLAI,
KOLIYAKKODE VEEDU, CHEMPAZHANTHY P.O.,
VLIYAZHATHURA VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.M.S.ANILKUMAR
SMT.D.JAMEELA DEVI

RESPONDENTS:

1. CHAIRMAN, TALUK LAND BOARD,
THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, BOARD OF REVENUE,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.G.BHASKARAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.M.P.NO.2069/2000 IN C.R.P.NO.998/2000

DISMISSED

20/11/2007 SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

AHZ/

K.T.SANKARAN, J.

C.R.P. NO. 998 OF 2000

Dated this the 20th day of November, 2007

O R D E R

Suo motu proceedings were initiated against Sri.M.Sivasankaran Nair, late husband of the revision petitioner in S.M.35/77, on the file of the Taluk Land Board, Thiruvananthapuram. The Taluk Land Board, as per the order dated 5.8.1977, directed the assessee to surrender an extent of 2.30 acres of land. Aggrieved by that order, the assessee filed C.R.P.No.2667 of 1977, which was allowed as per the order, dated 22.1.1979, on condition that the petitioner therein should deposit Rs.500/- before the Taluk Land Board and file objection along with the deposit. The assessee deposited the amount and filed objection. Thereafter, the Taluk Land Board passed an order, dated 29.10.1979, holding that the assessee was not holding any excess land and that he was not liable to surrender any extent of land.

2. On 21.4.1992, a notice was served on the assessee proposing to reopen the case under Section 85 (9A) of the Kerala Land Reforms Act. As per order, dated 19.5.1992, the Taluk Land Board decided to reopen the case under Section 85(9A) of the Kerala Land Reforms Act. The assessee died on 6.2.1992. Thereafter, notice was issued to the legal representatives of the assessee. Pursuant to the notice, the revision petitioner, widow of the assessee, filed objection on 2.7.1993. In the

objection, she stated that the assessee was holding only an extent of 10.60 acres of land and he had gifted an extent of 50 cents of land in Sy.No.268/02 in favour of his major daughter Indira Bai, as per document No.276 dated 27.1.1970. It was also contended that the remaining extent of land shown in the draft statement did not belong to the family of the assessee. It was contended that the family of the assessee is not liable to surrender any extent of land.

3. The Authorised Officer relied on the first report of the Authorised Officer and the classification thereunder and held that the assessee was holding 14.30 acres of land. There was another report, dated 29.10.1979, submitted by the Authorised Officer, based on which, the Taluk Land Board had passed the order, dated 29.10.1979. Thus, going by the order passed by the Taluk Land Board, there are two reports submitted by the Authorised Officer. After reopening the case under Section 85(9A), no report was apparently called for and the Authorised Officer did not inspect the properties to ascertain whether the objection filed by the revision petitioner is correct or not. In short, the Taluk Land Board proceeded only on the basis of the first report submitted by the Authorised Officer. However, the Taluk Land Board accepted the gift as a valid gift. Thereafter, the Taluk Land Board passed the order, holding that the declarant is liable to surrender an extent of 1.80 acres of land.

4. There is no discussion by the Taluk Land Board as to what objections were raised by the assessee, what materials were collected by the Authorised Officer touching on those objections and what is the report of the Authorised Officer on the said objections. No finding was rendered by the Taluk Land Board on those objections. It is to be noted that the present proceeding was initiated under Section 85(9A) of the Act. The Taluk Land Board should not have rejected the objections filed by the revision petitioner without considering the objections and without ascertaining the truth or otherwise of the objections. Once an order is set aside by the Taluk Land Board under Section 85(9A) and the matter is reopened, it was incumbent on the Taluk Land Board to have considered the entire matter afresh. The Taluk Land Board should have came to a conclusion as to whether the assessee was holding excess land as on 1.1.1970. Such a finding was not arrived at by the Taluk Land Board. The Taluk Land Board simply relied on the first report submitted by the Authorised Officer and calculated the extent to be surrendered by the assessee solely relying on the report of the Authorised Officer. There is no independent consideration of the contentions raised by the petitioner. The Taluk Land Board has not applied its mind to the objections raised by the revision petitioner.

5. The order passed by the Taluk Land Board is liable to be interfered with under Section 103 of the Kerala Land Reforms Act.

6. Though the petitioner filed a review petition before the Taluk Land Board that was rejected as per the order, dated 27.11.1999. I am not dealing with the order, dated 27.11.1999, in this Revision as, evidently, the review petition was not maintainable, as it was not to correct any clerical or arithematical mistake.

7. For the aforesaid reasons, the order, dated 19.1.1998, passed by the Taluk Land Board is set aside and the matter is remitted to the Taluk Land Board for fresh disposal in accordance with law. The Taluk Land Board shall direct the Authorised Officer to submit a report after inspection of the properties. The petitioner shall be given an opportunity to file objection to the report. The matter shall be heard and disposed of after affording an opportunity to the petitioner to produce documents and to adduce evidence. The Taluk Land Board shall dispose of the case as expeditiously as possible and, at any rate, within a period of six months from today.

The Civil Revision Petition is allowed as above.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

C.R.P.NO. 998 OF 2000

O R D E R

20th November, 2007